

REMARKS

In response to the above-identified Office Action (“Action”), Applicants traverse the Examiner’s rejection to the claims and seek reconsideration thereof. Claims 1-20 are pending in the present application. Claims 1-20 are rejected. In this response, claim 6 is amended, no claims are cancelled and no claims are added.

I. Claim Amendments

In the instant response, claim 6 is amended. In particular, the element of a “data decoding block” in claim 6 is amended to recite “date encoding block” to maintain consistency with claim 5 from which it depends. Since the amendment is supported by the specification and does not add new matter, Applicants respectfully request consideration and entry of the amendment to claims 6.

II. Claim Rejections – 35 U.S.C. §112

In the Action, the Examiner rejects claim 6 on the basis the limitation “data decoding block” lacks antecedent basis. Accordingly, Applicants have amended this portion of claim 6 as discussed above to recite “data encoding block.” This element is recited in claim 5 from which claim 6 depends and therefore has antecedent basis. In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 6 on this basis.

III. Claim Rejections – 35 U.S.C. §103

A. In the outstanding Action the Examiner rejects claims 1, 2 and 4-8 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0161462 issued to Fay et al. (“Fay”) and U.S. Publication No. 2001/0014621 issued to Okubo et al. (“Okubo”). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, the Examiner must show that the cited reference teaches or suggests each of the elements of a claim. Hindsight reconstruction may not be used to modify the reference to meet the claimed invention. MPEP § 2145. Furthermore, the fact that the claimed invention is within the capabilities of one of ordinary skill in the art, without

some showing of an objective reason for modifying the reference to arrive at the claimed invention, is not sufficient to establish a *prima facie* case of obviousness. *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000).

In regard to independent claims 1 and 7, Applicants respectfully submit claims 1 and 7 are not *prima facie* obvious over Fay and Okubo for at least the reason that the references fail to teach or suggest the elements of “an audio editing/producing unit separating object-based sound sources applied through the audio input unit into object sounds and background sounds according to a user’s selection” (claim 1) and “separating sound source objects from among sound sources according to a selection by a user” (claim 7).

The Examiner alleges that Fay and Okubo teach an audio editing/producing unit separating object-based sound sources applied through the audio input unit into object sounds (Fay) and background sounds (Okubo) according to a user’s selection. See Action, pages 2-3. Applicants respectfully disagree and submit the devices of Fay and Okubo do not allow for the separation of sound sources according to a user’s selection into object sounds and background sounds. In particular, the Examiner alleges paragraphs [0003] and [0009] of Fay teach user controlled selections. Paragraph [0003] of Fay, however, merely describes the user’s experience when playing a video game having audio associated with a video game character or object. It does not teach that the sound sources are separated into object sounds based on a user’s selections. Paragraph [0009] discloses use of a MIDI file to control audio output. Thus, any object associated sounds are selected by a text section of the script file designating a point during the execution of the script sequence where audio is to be initiated, not a user. See Fay [0026]. In addition, Fay specifically distinguishes between sound designers and application programmers who create and maintain audio content by writing the desired scripts (see Fay [0041]) and the actual “users” who merely enjoy the video game audio created by the designers and programmers (see Fay [0004], [0187]). Accordingly, the Examiner may not characterize the designers and programmers as “users” as the term is used in the instant application to teach this limitation.

Similarly, Okubo teaches preprogrammed background sounds controlled by a sound controller 201(f). See Okubo, [0043]-[0048]. Okubo does not disclose that sounds may be separated into background sounds according to a user’s selection. Thus, for at least the foregoing

reasons, the Examiner fails to point to a portion of either Fay or Okubo teaching or suggesting at least these elements of claims 1 and 7. Since each of the elements of the claims are not taught by the references, a *prima facie* case of obviousness may not be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1 and 7 under 35 U.S.C. §103 over Fay in view of Okubo.

In regard to claims 2, 4-6 and 8, these claims depend from claims 1 and 7, respectively, and therefore incorporate the limitations thereof. For the reasons discussed in regard to claims 1 and 7, Fay and Okubo fail to teach or suggest at least the elements of “an audio editing/producing unit separating object-based sound sources applied through the audio input unit into object sounds and background sounds according to a user’s selection” and “separating sound source objects from among sound sources according to a selection by a user” as further found in claims 2, 4-6 and/or 8. Since each of the elements of the claims are not taught or suggested by the references, a *prima facie* case of obviousness may not be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2, 4-6 and 8 under 35 U.S.C. §103 over Fay in view of Okubo.

B. In the outstanding Action the Examiner rejects claim 3 under 35 U.S.C. §103(a) as being unpatentable over Fay and Okubo and further in view of U.S. Publication No. 2005/0080616 issued to Leung et al. (“Leung”) and U.S. Publication No. 2003/0053680 issued to Lin et al. (“Lin”). Applicants respectfully traverse the rejection.

In regard to claim 3, claim 3 depends from claim 1 and incorporates the limitations thereof. For the reasons discussed in regard to claim 1, Fay and Okubo fail to teach or suggest at least the element of “an audio editing/producing unit separating object-based sound sources applied through the audio input unit into object sounds and background sounds according to a user’s selection” as further found in claim 3. The Examiner has further not pointed to, and Applicants are unable to discern a portion of Leung and Lin curing the deficiencies of Fay and Okubo with respect to this element. Since each of the elements of the claims are not taught by the references, a *prima facie* case of obviousness may not be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 3 under 35 U.S.C. §103 over Fay in view of Okubo, Leung and Lin.

C. In the outstanding Action the Examiner rejects claims 9, 13-16 and 18-19 under 35 U.S.C. §103(a) as being unpatentable over Fay and Okubo and U.S. Publication No. 2002/0035334 issued to Meij et al. ("Meij"). Applicants respectfully traverse the rejection.

In regard to independent claims 9, 16 and 19, the Examiner admits Fay and Okubo fail to teach or suggest the element of a "a user control unit providing a user interface so as to selectively synthesize the audio scene by the audio scene synthesizing unit under the control of the user" as recited in claim 9. In addition, for the reasons previously discussed, Fay and Okubo fail to teach or suggest motion processing "to modify and apply the processed object sounds and 3-D information" and "separating the sound sources applied through the audio input into object sounds and background sounds" according to a user's selection as further recited in claims 16 and 19, respectively.

Moreover, Meij may not be relied upon to cure the deficiencies of Fay and Okubo with respect to these elements for at least the reason that Meij may not be properly combined with Fay and Okubo. In particular, Meij teaches an electrocardiogram system for generating synthesized ECG lead signals. Synthesizing ECG lead signals is not in the field of Applicants' endeavor much less pertinent to audio scene synthesizing as provided in the instant claims. Moreover, Fay and Okubo teach systems for managing audio data within a video game system. Accordingly, upon review of Fay and Okubo, one of ordinary skill in the art would not be motivated to modify the references to incorporate features of an electrocardiogram system as described in Meij. Since Meij may not be properly combined with at least Fay and Okubo, the Examiner has not shown that the combination of Fay, Okubo and Meij may be relied upon to teach or suggest each and every element of claims 9, 16 and 19. For at least the foregoing reasons, claims 9, 16 and 19 are not *prima facie* obviousness over the references. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 9, 16 and 19 under 35 U.S.C. §103 over Fay, Okubo and Meij.

In regard to claims 13-15 and 18, these claims depend from claims 9 and 16 respectively and incorporate the limitations thereof. Thus, for at least the reasons that claims 9 and 16 are not *prima facie* obvious over Fay, Okubo and Meij, claims 13-15 and 18 are further not obvious over

the references. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 13-15 and 18 under 35 U.S.C. §103 over Fay, Okubo and Meij.

D. In the outstanding Action the Examiner rejects claim 10 under 35 U.S.C. §103(a) as being unpatentable over Fay, Okubo and Meij and further in view of U.S. Publication No. 2002/0103554 issued to Coles et al. (“Coles”). Applicants respectfully traverse the rejection.

In regard to claim 10, claim 10 depends from claim 9 and incorporates the limitations thereof. As admitted by the Examiner Fay and Okubo fail to teach or suggest “a user control unit providing a user interface so as to selectively synthesize the audio scene by the audio scene synthesizing unit under the control of the user” as further found in claim 10. Moreover, as previously discussed, Meij may not be properly combined with Fay and Okubo to teach this element. The Examiner has further not pointed to, and Applicants are unable to discern, a portion of Coles curing the deficiencies of Fay and Okubo with respect to at least this element. Since each of the elements of claim 20 are not taught by the references, a *prima facie* case of obviousness may not be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 10 under 35 U.S.C. §103 over Fay in view of Okubo, Meij and Coles.

E. In the outstanding Action the Examiner rejects claims 11, 17 and 20 under 35 U.S.C. §103(a) as being unpatentable over Fay, Okubo and Meij and further in view of Lin. Applicants respectfully traverse the rejection.

In regard to independent claim 20, for at least the reasons previously discussed, the combination of Fay, Okubo and Meij may not be relied upon to teach or suggest at least the elements of “separating sound source objects from among sound sources according to a selection by a user” and processing the sounds to “modify and apply the processed object sounds and 3-D information according to a user’s selection” as recited in claim 20. The Examiner has further not pointed to and Applicants are unable to discern a portion of Lin curing the deficiencies of Fay, Okubo and Meij with respect to these elements. Since each of the elements of claim 20 are not taught or suggested by the references, a *prima facie* case of obviousness may not be established.

Applicants respectfully request reconsideration and withdrawal of the rejection of claim 20 under 35 U.S.C. §103 over Fay in view of Okubo, Meij and Lin.

In regard to claims 11 and 17, claims 11 and 17 depend from claims 9 and 16, respectively, and incorporate the limitations thereof. Thus, for at least the reasons previously discussed in regard to claims 9 and 16, the combination of Fay, Okubo and Meij may not be relied upon to teach the elements of a “a user control unit providing a user interface so as to selectively synthesize the audio scene by the audio scene synthesizing unit under the control of the user” as recited in claim 9 and further found in claim 11 and motion processing “to modify and apply the processed object sounds and 3-D information according to a user’s selection” as recited in claim 16 and further found in claim 17. The Examiner has further not pointed to and Applicants are unable to discern a portion of Lin curing the deficiencies of Fay, Okubo and Meij with respect to these elements. Since each of the elements of the claims are not taught by the references, a *prima facie* case of obviousness may not be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 11 and 17 under 35 U.S.C. §103 over Fay in view of Okubo, Meij and Lin.

F. In the outstanding Action the Examiner rejects claims 12 and 15 under 35 U.S.C. §103(a) as being unpatentable over Fay, Okubo and Meij and further in view of Lin and further in view of U.S. Patent No. 7,133,730 issued to Katayama et al. (“Katayama”). Applicants respectfully traverse the rejection.

In regard to claims 12 and 15, claims 12 and 15 depend from claim 9 and incorporate the limitations thereof. Thus, for at least the reasons previously discussed in regard to claim 9 the combination of Fay, Okubo, Meij and Lin may not be relied upon to teach the element of a “a user control unit providing a user interface so as to selectively synthesize the audio scene by the audio scene synthesizing unit under the control of the user” as recited in claim 9 and further found in claims 12 and 15. The Examiner has further not pointed to and Applicants are unable to discern a portion of Katayama curing the deficiencies of Fay, Okubo, Meij and Lin with respect to this element. In addition, the Examiner’s reliance on a total of 5 references to render claims 12 and 15 obvious further suggests the claims are not obvious in view of the prior art. Since each of the elements of the claims are not taught by the references, a *prima facie* case of obviousness

may not be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 12 and 15 under 35 U.S.C. §103 over Fay in view of Okubo, Meij, Lin and Katayama.

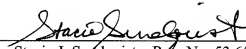
CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-20, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on April 27, 2007.


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